

48A C.J.S. Judges § 183

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

VI. Authority, Powers, and Duties

H. Particular Judges

1. Successor Judges

b. Authority to Reconsider and Change Predecessor's Decision

§ 183. Limits on authority pertaining to issues of fact depending on credibility—Consideration of record or transcript

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

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Unless the parties have stipulated to relevant and controlling facts, a successor judge may not reconsider or set aside a predecessor's ruling or decision without reviewing or considering the record or transcript upon which the earlier decision was made.

A successor judge may not reconsider or set aside a predecessor's ruling or decision without reviewing or considering the record or transcript upon which the earlier decision was made,¹ at least not unless the parties have stipulated to relevant and controlling facts.² A judge who has not presided over the original trial and who has not read a transcript of those proceedings, does not have the necessary basis to act as an advised and intelligent fact finder, either in the first instance or in an amendatory fashion.³ In addition, to permit a successor judge to render a decision without even considering the record or the transcript upon which the earlier decision was made would render the conduct of the first judge meaningless.⁴

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Footnotes

- ¹ Ala.—[Trail Pontiac-GMC Truck, Inc. v. Evans](#), 540 So. 2d 645 (Ala. 1988).
- Ariz.—[Gersten v. Gersten](#), 223 Ariz. 99, 219 P.3d 309 (Ct. App. Div. 12009).

Mont.—FIRS Holding Co., Inc. v. Lemley, 272 Mont. 490, 901 P.2d 571 (1995).

2 Mont.—FIRS Holding Co., Inc. v. Lemley, 272 Mont. 490, 901 P.2d 571 (1995).

3 Mont.—FIRS Holding Co., Inc. v. Lemley, 272 Mont. 490, 901 P.2d 571 (1995).

4 Ala.—Trail Pontiac-GMC Truck, Inc. v. Evans, 540 So. 2d 645 (Ala. 1988).

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